IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Shri Anpurna Samuhik Krishi Sahkari Samiti Limited, Rodla v. State of Rajasthan

S.B.CIVIL WRIT PETITION NO.1550/1994
under Article 226 of the Constitution of India.

Date of Order : 16th November, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. V.R.Choudhary, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

The instant writ petition is directed against the order dated 14/16.12.1993 passed by the Registrar, Cooperative Societies, Rajasthan, Jaipur exercising powers under Section 128 of the Rajasthan Cooperative Societies Act, 1965 (hereinafter referred to as “the Act of 1965”). By the order aforesaid the Registrar cancelled registration of the petitioner society as a cooperative society.

The facts required to be noticed for adjudication of present writ petition are as follows:-

The petitioner was registered as a cooperative society under the provisions of the Rajasthan Cooperative Societies Act, 1953 by the Assistant Registrar, Cooperative Societies, Sirohi on 17.6.1957.

The Registrar, Cooperative Societies suo moto initiated proceedings under Section 128 of the Act of 1965 against the petitioner society and called for the record from the office of the Assistant Registrar, Cooperative Societies, Sirohi pertaining to the registration of the petitioner society as a cooperative society. The Registrar, Cooperative Societies as a consequent to the proceedings referred above reached at the conclusion that the registration of the petitioner as a cooperative society itself was erroneous and, therefore, cancelled the same. The Registrar while dealing with the issue pertaining to the validity of registration of the petitioner society dealt with the available facts as under:-

> "तत्कालीन सहायक निरीक्षक श्री राममूर्ती द्वारा अपनी परीक्षण तालिका दिनांक 2-3-57 के बिन्दु संख्या 6 में अंकित किया । "कुछ सदस्य कार्यक्षेत्र के बाहर के भी है जिनको हालवासी लिखकर सम्मिलित किया गया है इसका स्पष्टीकरण भी आवश्यक है कि वे कहाँ कब से रहते है अब तक कहां क्या करते थे । क्रमांक 10, 11, 12, 13, 14, 18, 19 के सदस्योंद्वारा आवेदन पत्र में । यहां इसका भी स्पष्टीकरण आवश्यक है कि ये किनके यहां नौकरी या कृषि करते हैं ।"

मंत्री समिति द्वारा अपने पत्र दिनांक 23-3-57 द्वारा इस आरोप के विषय में निम्न स्पष्टीकरण दिया गया था :-

"सदस्य नं. 10 से 14 तथा 18 व 19 हाल साकिन देह में है तथा इनके दूसरी जगह भी काश्त आदि का धन्धा है वहां भी आते जाते हैं इस समिति की रजिस्ट्री पर यहां कालोनी बसाने का ख्याल रखते है फिलहाल यहीं रहते है । साथ ही जहां तहां कार्य सम्हालते भी जाते है पर समिति के कार्यकाल में यहीं रहते है । ये लोग अभी व्यक्तिगत रूप से काश्त करते हैं ये लोग किसी भी व्यक्ति विशेष की नौकरी पर यहां नहीं है । केवल निजी काशत पर ही निर्भर है पिछले डेढ वर्ष से यहां रहने तथा काश्त करने आ रहे है ।"

समिति द्वारा दिए गए जवाब में स्वयं अंकित किया गया है कि ये लोग समिति के कार्यक्षेत्र में स्थाई रूप से निवास नहीं करते हैं आते जाते रहते है । समिति के उपनियम सं. 6(क) के अनुसार समिति का सदस्य वही व्यक्ति हो सकता है जो समिति के कार्यक्षेत्र का निवासी हो । समिति का कार्यक्षेत्र रोडला अंकित किया गया है ।

उपरोक्त विवेचन से स्पष्ट है कि समिति के पंजीयन के समय समिति में ऐसे सदस्यों को सदस्य बनाया गया था जो समिति के कार्यक्षेत्र के बाहर के निवासी थे ।"

The Registrar by the order impugned dated 16.12.1993 cancelled registration of the petitioner society on the count that in the month of March, 1957 at the time of registration of the petitioner society 9 persons out of 20 persons claiming to be members of the petitioner society were not residents of village Rodla.

Learned counsel for the petitioner has given challenge to the order aforesaid on the ground that the Registrar, under Section 128 of the Act of 1965 is not at all equipped with the powers to cancel registration of a cooperative society, accordingly the

order impugned is without jurisdiction. In alternative it is further submitted by counsel for the petitioner that the finding arrived by the Registrar is erroneous as all the 20 members were residents of village Rodla.

Heard counsel for the parties.

Without entering into the question as to whether the Registrar was having any power under Section 128 of the Act of 1965 to cancel registration of the petitioner society, I am of the view that the order impugned deserves to be quashed being arbitrary.

The Registrar cancelled registration of the petitioner society in the year 1993 on the count that in the month of March, 1957, 9 persons out of 20 persons who were shown as members of the society were not residents of village Rodla. Even if it is assumed that the Registrar, Cooperative Societies was empowered to cancel registration of the petitioner society under Section 128 of the Act of 1965 then too such power is required to be exercised in a reasonable manner and within a reasonable period. If a power vested is exercised by an authority with an inordinate delay then the same is nothing but arbitrary exercise of powers.

In the present case the petitioner society was registered as a cooperative society in the year

1957 and the Registrar proceeded to cancel its registration in the year 1993. The action taken by the Registrar at such a belated stage is arbitrary and, therefore, is illegal.

It is also relevant to note that the Registrar while cancelling registration of the petitioner society reached at the conclusion that 9 persons were not residents of village Rodla on basis of an explanation given by the petitioner society in the year 1957 prior to its registration. In the explanation it was stated that some of the members are not permanent residents of village Rodla but from last about 1½ years they are residing in village Rodla. The Registering Authority after considering the explanation registered the petitioner as a cooperative society under the Act of 1953. It is true that under the bye laws of the petitioner society only the residents of village Rodla could be its members, however, the bye laws no where mentions that the members should be permanent residents of the working area of the petitioner society i.e. village Rodla. From reading of explanation it is clear that 9 persons whose place of residence was in question were residing at village Rodla from the period of about 1½ years, as such they were certainly residents of village Rodla. The finding given by the Registrar, therefore, is based on erroneous interpretation of facts.

Accordingly, the writ petition succeeds and, therefore, the same is allowed. The order impugned dated 14/16.12.1993 is hereby quashed.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.